THE HON'BLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.4195 OF 1998

ORDER:

This Writ Petition is filed seeking a Mandamus to declare the order dated 6.2.1998 issued by the 1st respondent as arbitrary and illegal and consequently to pass orders (a) restraining the respondent from holding any further departmental enquiry against the petitioner (b) treating his suspension period from 24.11.1999 to 23.3.1994 as the period on duty with full salary and allowances (c) holding that the petitioner is entitled to all consequential benefits such as promotion, fixation of pay etc.,

It is the case of the petitioner that he has been appointed as Clerk-cum-Cashier in the service of State Bank of India with effect from 17.3.1979. Thereafter, he was transferred to various places. While working at Waddepally Branch in Warangal district in the year 1984, at the instance of some persons, criminal proceedings were launched against the Branch Manager as well as him in Rc.No.25/1986 on the file of Central Bureau of Investigation, Hyderabad alleging criminal conspiracy to cheat State Bank of India in the matter of sanction of loans. However, during the pendency of criminal proceedings petitioner was suspended from service on 24.11.1986. Since C.C.No.9 of 1990 in which petitioner was shown as one of the accused ended in acquittal, his suspension was revoked and he joined duty on 23.3.1994. Even after revocation of suspension, no departmental enquiry was initiated. However, the 1st respondent issued impugned proceedings stating that the petitioner is not entitled to get increments for the period he was under suspension i.e., from 24.11.1989 to 23.3.1994 and as such he is also not entitled to arrears of salary. Aggrieved thereby, the present Writ Petition is filed. The petitioner also apprehends that the respondent may conduct departmental enquiry into the charges levelled against him, which ended in acquittal in the criminal case.

It is the contention of the petitioner that the Branch Manager who was accused No.1 in C.C.No.9 of 1990 and who was alleged to have committed criminal conspiracy in sanctioning loans for which the petitioner was also alleged to have assisted, was proceeded against with departmental enquiry and punishment of stoppage of two

increments was imposed. However, on appeal the said punishment was taken away and the appeal was allowed in toto. According to the petitioner, probably, in view of the fact that the Branch Manager, against whom allegations were made and nothing could be made out, the Management would have thought that there was no necessity to proceed against the petitioner and therefore, issued impugned proceedings without initiating any departmental enquiry, and imposed the punishment of denial of increments and arrears of salary for the period he was under suspension. Hence the Writ Petition.

A detailed counter affidavit has been filed by the respondents denying the allegations made by the petitioner. It is asserted that the petitioner was not denied any benefits, and, in fact, his suspension was revoked and he is being paid salary regularly. It is stated that sanction of increments and payment of balance of salary for the period between 24.11.1989 and 23.3.1994 is made subject to the result of the enquiry contemplated against him.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and looked into the impugned proceedings as well as the other material made available on record.

At the out set, I am of the opinion that the impugned proceedings are punitive in nature, as without conducting any enquiry into the misconduct alleged against the petitioner, denial of increments for the period from 24.11.1989 to 23.3.1994 as well as balance of salary for the said period is arbitrary and illegal. In this case admittedly though the petitioner was suspended from service in the year 1989 no enquiry was conducted till 23.3.1994 and even till the date of filing of the Writ Petition. However, a perusal of the impugned proceedings indicates that such denial of increments as well as balance of salary is subjected to the result of the enquiry to be initiated. Admittedly, the allegation against the petitioner is that he being a Clerk-cum-Cashier assisted the Branch Manager in sanctioning fictitious loans and caused loss to the State Bank of India. However, against the Branch Manager nothing was proved,. and even if an enquiry is to be conducted against the petitioner it may result in the same thing, we do not know.

In view of the above facts and circumstances, the Writ Petition is disposed of directing the respondents to release the increments and also pay the balance of salary for the period from 24.11.1989 to 23.3.1994 within a period of one month from

today. However, the same shall be subject to the result of the departmental enquiry. It is made clear that the respondents are at liberty to proceed against the petitioner with the departmental enquiry if any contemplated. There shall be no order as to costs.

10th August, 2005.

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V. RAMULU

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WRIT PETITION No : 4195 OF 1998

Between:

M. Ashok Kumar ..... PETITIONER

AND

1. The Assistant General Manager-cum-

Regional Manager, Region-IV,

State Bank of India, Zonal Office,

Hyderabad & Another.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to

Counsel for the Petitioner:MR.V.JAGAPATHI

Counsel for the Respondent No.: MR.K.SRINIVASA MURTHY

The Court made the following :

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1) 2 CD copies

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